



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------------|--------------------------|------------------------|
| 10/796,758 | 03/09/2004 | Sjoerd Johannes van Driesten | AVERP3447USA | 4363 |
| 7590 Heidi A. Boehlefeld Renner, Otto, Boisselle & Sklar, LLP Nineteenth Floor 1621 Euclid Avenue Cleveland, OH 44115-2191 | | | EXAMINER TRAN, THAO T | |
| | | | ART UNIT 1794 | PAPER NUMBER |
| | | | MAIL DATE 01/16/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/796,758

Applicant(s)

DRIESTEN, SJOERD JOHANNES
VAN

Examiner

Thao T. Tran

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 19, 20, 41, 43 and 45-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 19, 20, 41, 43 and 45-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/2007 has been entered.
2. By this Reply, claims 1-11, 19-20, 41, 43, and 45-48 are currently pending in this application. Claims 18, 42, and 44 have been canceled. Claims 1, 19-20, 41, 43, 46-48 have been amended.
3. In view of the prior Office action, the rejections of the claims as anticipated by the Van Driesten references and Navarini have been withdrawn. However, the rejection of the claims as anticipated by Bane is maintained. A new rejection of the claims is also added below.

Remarks

4. Applicants are reminded that it is the structural elements, not properties or functions, that impart patentability when an article claim is being considered. To distinguish the presently claimed invention from the prior art, Applicants should include structural elements that give the article its' properties that are being claimed.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-4, 18, 41, 43, 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Bane (US Pat. 5,366,087), cited in the IDS filed on 9/29/2005.

Bane discloses a label to reseal a package, comprising a substrate 11 of paper that can be coated with a thermally sensitive coating 12 having a perforated line bisecting the substrate. And on the other face of the substrate, on opposite sides of the perforated line, are coatings 14 and 15 of adhesives. Coating 14 is a permanent pressure sensitive and hotmelt (heat sensitive) adhesive and coating 15 is a repositional adhesive (removable and resealable) (see Figs. 1-4; paragraph bridging col. 2-3; paragraph bridging col. 3-4). A release liner 16 covers the coatings 14 and 15, or coating 12 so as to provide a roll of such labels (see col. 3, ln. 8-23).

Although the reference does not specifically teach the substrate to be moisture resistant, the adhesive to be removable and resealable in the presence of moisture from food packaging environments, or its Moist Loop Test result, since the reference teaches the same components in the laminate, the laminate would inherently have all the same properties as presently claimed.

7. Claims 1, 5, 8, 11, 19-20, 41, 43, 45-47 are rejected under 35 U.S.C. 102(b) as being anticipated by McClintock (US Pat. 5,217,307).

McClintock discloses an adhesive article, comprising a substrate (face stock 11), a removable and resealable adhesive 18B adhered to at least a first portion of the first surface of the substrate, a permanent adhesive 18A adhered to at least a second portion of the first surface

of the substrate, a release member 16 with a release coat 20 (see Fig. 2 & 9). Fig. 9 shows web W carries a plurality of the adhesive articles.

The face stock can be made of polyester. The release coat is silicone. The removable or permanent adhesive is pressure sensitive adhesive of acrylic or rubber-based (see col. 7, ln. 35-43).

Although the reference does not specifically teach the substrate to be moisture resistant, the adhesive to be removable and resealable in the presence of moisture from food packaging environments, or its Moist Loop Test result, since the reference teaches the same components in the laminate, the laminate would inherently have all the same properties as presently claimed.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bane as applied to claim 1 above, and further in view of Freedman et al. (US Pat. 4,543,139).

Bane is as set forth in claim 1 above and incorporated herein.

Bane does not teach the substrate to be the polymer as recited in the instant claims.

Freedman teaches an adhesive tape for use on a substrate that is a polymer such as polypropylene and polyesters including polyethylene terephthalate (see col. 4, ln. 57-58; col. 5, ln. 11-20).

Therefore, it would have been obvious to one of ordinary skill in the art to have employed the substrate, as taught by Freedman, in the adhesive article of Bane. Since Freedman teaches the use of a substrate made of polypropylene and polyethylene terephthalate as well as polymer-coated paper as alternatives of each other, the use of one or another would have been dependent upon user's preference and intended use.

10. Claims 2-4, 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClintock as applied to claim 1 above, and further in view of Freedman et al. (US Pat. 4,543,139).

McClintock is as set forth in claim 1 above and incorporated herein.

McClintock does not teach a substrate comprising a polymer coated paper face stock, a multilayer, or a polyolefin film.

Freedman teaches an adhesive tape for use on a substrate that is a polymer coated paper, or a polymer such as polypropylene and polyesters including polyethylene terephthalate (see col. 4, ln. 57-58; col. 5, ln. 11-20).

Therefore, it would have been obvious to one of ordinary skill in the art to have employed the substrate, as taught by Freedman, in the adhesive article of McClintock. Since Freedman teaches the use of a substrate made of polypropylene and polyethylene terephthalate as well as polymer-coated paper as alternatives of each other, the use of one or another would have been dependent upon user's preference and intended use.

11. Claims 5-11, 19-20, 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bane as applied to claims 1, 43 above, and further in view of Van Driesten et al. (WO 00/46316).

Bane is as set forth in claims 1 and 43 above and incorporated herein.

Bane does not teach the substrate or the adhesive as recited in the instant claims.

Van Driesten (WO '316) discloses an adhesive article, comprising a face construct 11, a release layer 13, a pressure-sensitive adhesive (permanent) layer 14, a polyester layer 15, a pressure-sensitive adhesive layer 12, a non pressure sensitive adhesive layer 2, a release layer 32, a liner layer 37, a pressure sensitive adhesive layer 36, a release layer 33, and a liner layer 31 (see claims 1-23; Fig. 14A).

Layers 11, 31, and 37 are made of paper and plastic film of a polyolefin, such as polyethylene and polypropylene, or a polyester, such as polyethylene terephthalate (see claims 19-21; page 15, 2nd paragraph). The PSA adhesive and non-PSA adhesive can be hotmelt adhesive and rubber-based or acrylic-based (see page 9, ln. 21-33; page 11, ln. 24-37; page 19, ln. 23-36).

Therefore, it would have been obvious to one of ordinary skill in the art to have employed the substrate and the adhesive, as taught by Van Driesten, in the laminate of Bane. Since Van Driesten teaches the substrate to be paper, polyolefin, or polyester, the use of one or another would have been dependent upon user's preference and intended use. The same argument is presented with the use of the hotmelt adhesive as the alternative of the rubber-based or acrylic-based adhesive and PSA or non-PSA adhesive.

12. Claims 2-4, 6-7, 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClintock as applied to claim 1 above, and further in view of Van Driesten.

McClintock is as set forth in claim 1 above and incorporated herein.

McClintock does not teach the substrate or the adhesive as recited in the instant claims.

Van Driesten (WO '316) discloses an adhesive article, comprising a face construct 11, a release layer 13, a pressure-sensitive adhesive (permanent) layer 14, a polyester layer 15, a pressure-sensitive adhesive layer 12, a non pressure sensitive adhesive layer 2, a release layer 32, a liner layer 37, a pressure sensitive adhesive layer 36, a release layer 33, and a liner layer 31 (see claims 1-23; Fig. 14A).

Layers 11, 31, and 37 are made of paper and plastic film of a polyolefin, such as polyethylene and polypropylene, or a polyester, such as polyethylene terephthalate (see claims 19-21; page 15, 2nd paragraph). The PSA adhesive and non-PSA adhesive can be hotmelt adhesive and rubber-based or acrylic-based (see page 9, ln. 21-33; page 11, ln. 24-37; page 19, ln. 23-36).

Therefore, it would have been obvious to one of ordinary skill in the art to have employed the substrate and the adhesive, as taught by Van Driesten, in the laminate of McClintock. Since Van Driesten teaches the substrate to be paper, polyolefin, or polyester, the use of one or another would have been dependent upon user's preference and intended use. The same argument is presented with the use of the hotmelt adhesive as the alternative of the rubber-based or acrylic-based adhesive and PSA or non-PSA adhesive.

Response to Arguments

13. Applicant's arguments filed on 10/23/2007 have been fully considered but they are not persuasive.

The arguments with respect to the Van Driesten references and Navarini are moot due to the withdrawal of the rejections.

In response to Applicants' arguments that Bane teaches a wide variety of conventional permanent and repositional adhesives, and not the types or classes of permanent or repositional adhesives as presently claimed, it is noted that since Bane teaches the adhesives as claimed, they would inherently have the same properties as claimed. Again, Applicants are reminded to include the chemical or structural elements to impart these properties in order to be patentably distinct over the prior art. The presently claimed invention recites the permanent and repositional adhesives in general, thus what is taught by Bane would anticipate the claims.

14. In summary, Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. Furthermore, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Contact Information

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is 571-272-1080. The examiner can normally be reached on Monday-Friday, from 9:00 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/796,758
Art Unit: 1794

Page 9

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thao T. Tran
Primary Examiner
Art Unit 1794

tt